

Attached Surety Bonds

PERFORMANCE BOND

_____, as surety ("Surety"), and _____ as principal ("Contractor"), enter into and execute this bond ("Performance Bond"), and bind themselves in favor of The Metropolitan Government of Nashville and Davidson County as obligee ("Owner") in the penal sum of \$ _____

WHEREAS, the Contractor has executed this Construction Contract with the Owner and,

WHEREAS, the Owner has required the Contractor to furnish a Performance Bond containing the terms and conditions set forth herein as a condition to executing the Construction Contract;

NOW THEREFORE, the Surety and the Contractor, both jointly and severally, and for themselves, their heirs, administrators, executors and successors agree:

1. The Construction Contract is hereby incorporated herein and by reference made a part hereof to the same extent and effect as though it were copied verbatim herein. The Surety and the Contractor are bound for the full performance of the Construction Contract including without exception all of its terms and conditions, both express and implied, including, without limitation, any obligation to remedy defects for a specified period after full completion of the Project.

2. If the Contractor is in default of the Construction Contract and the Owner, by written notice to the Contractor and the Surety, declares the Contractor to be in default and terminates the right of the Contractor to proceed, the Surety shall thereupon promptly notify the Owner in writing as to which of the actions permitted to the Surety in Paragraph 3 it will take.

3. Upon the default and termination of the Contractor and notice to the Contractor and Surety as provided in Paragraph 2 above, the Surety shall within forty-five (45) days proceed to take one or, at its option, more than one of the following of the courses action:

(a) Proceed itself, or through others acting on its behalf, to complete full performance of the Construction Contract including, without limitation, correction of defective and nonconforming work performed by or on behalf of the Contractor. During such performance by the Surety, the Owner shall pay the Surety from its own funds only such sums as would have been due and payable to the Contractor in the absence of default and termination;

(b) With the prior agreement and written consent of the Owner, Owner may, at the Surety's cost and expense, obtain Proposals or proposals from contractors in accordance with applicable procurement laws and regulations, for full performance of the Construction Contract. The Owner shall furnish the Surety a copy of such Proposals or proposals following opening of same. Unless Surety objects, the Owner shall, in accordance with applicable procurement laws and regulations, award a contract, acceptable to Owner, for fulfillment and completion of the Construction Contract. Any payment or performance bonds required therewith shall not relieve the Surety from any of its obligations under this Performance Bond. Should Surety object to the award, the Surety shall proceed under another permissible course of action. In the event of award, the Owner shall pay the completing contractor from its own funds only such sums as would have been due and payable to the Contractor under the Construction Contract as and when they would have been due and payable to the Contractor in the absence of the default and termination. To the extent that the Owner is obligated to pay the completing contractor sums which would not have been due and payable to the Contractor under the Construction Contract, the Surety shall provide the Owner with such sums in a sufficiently timely manner that the Owner can utilize such sums in making timely payment to the completing contractor; or,

(c) Take any and all other acts, if any, mutually agreed upon in writing by the Owner and the Surety.

Liquidated damages shall continue to accrue until completion of the Project, in accordance with the Contract.

4. In addition to those duties set forth herein above, the Surety shall promptly pay the Owner all loss, costs and expenses resulting from the Contractor's default(s), including, without limitation, fees, expenses and costs for architects, engineers, consultants, testing, surveying and attorneys, liquidated and actual damages, as applicable, for delay in completion of the Project, and fees, expenses and costs incurred at the direction, request, or as a result of the acts or omissions of the Surety.

5. The Surety waives notice of any changes to the Construction Contract including, without limitation, changes in the contract time, the contract price, or the work to be performed.

6. The Surety provides this Performance Bond for the sole and exclusive benefit of the Owner and, if applicable, any dual obligee designated by rider attached hereto together with their heirs, administrators, executors, successors or assigns. No other party, person or entity shall have any rights against the Surety hereunder.

7. Any and all notices to the Surety, the Owner or the Contractor shall be given by U.S. Mail to the address set forth for each party below:

Surety:

Contractor:

Owner: Purchasing Agent
The Metropolitan Government of Nashville and Davidson County
222 Third Avenue North, Sixth Floor
Nashville, TN 37201

8. Any action hereon may be instituted so long as the applicable statute of limitations has not expired.

CONTRACTOR:

_____. Seal
(TYPED NAME)

By: _____
(SIGNATURE)

(PRINTED NAME, TITLE AND ADDRESS)

(DATE OF EXECUTION)

SURETY:

_____. Seal
(TYPED NAME)

By: _____
(SIGNATURE)

(PRINTED NAME, TITLE AND ADDRESS)

(DATE OF EXECUTION)